

REMARKS

Applicant thanks the Examiner for confirming in a teleconference with Applicant's representative on May 19, 2004 that the Office Action mailed May 17, 2004 was non-final.

By the present Amendment, claim 27 has been cancelled, the subject matter thereof being included in claims 26 and 45. Thus, claims 26, 28-35, 37-39 and 41-48 are presently pending. Claims 26, 41 and 45 are independent.

Claims 26-35 and 37-39 are rejected under 35 USC 103(a) as being unpatentable over Midha et al U.S. Patent No. 5,986,015. Claims 41-48 are rejected under 35 USC 103(a) as being unpatentable over Midha et al in view of Merck (Merck Index, 11th Ed., 1989, monograph 4486). These rejections are respectfully traversed.

The purpose of the present invention is to provide a thickening system capable of satisfactorily thickening or gelling a hairstyling composition based on specific fixing copolymers (page 2, paragraph 2, of the specification). It has been observed, during formation of hairstyling gels, that these novel polymers have the disadvantage of considerably fluidifying most conventional thickening systems such as, for example, those based on acrylic copolymers or homopolymers (specification at page 1, last paragraph). Applicant has found a particular combination of thickening polymers which makes it possible to overcome the problems of fluidification and alteration of the properties of using the gel (page 2, paragraph 3).

Midha et al U.S. Patent No, 5,986,015 relates to a process for a simpler, more effective synthesis of graft polymers using fewer process steps than conventional synthesis methods (column 2, lines 19-23). A cosmetic composition including a specific fixing film-forming polymer of the invention, comprising n-butyl acrylate, acrylic acid, methacrylic acid, and allyl methacrylate as a bifunctional monomer (see claims 26 and 45), is not disclosed or suggested by Midha et al. In particular, allyl methacrylate is not disclosed. This polymer considerably fluidifies most conventional thickening systems. Thus, one skilled in the art, faced with the technical problem of finding a composition which makes it possible to overcome the problems of fluidification of this specific polymer, could not find a solution in Midha et al. Indeed, thickening agents are only mentioned as optional ingredients (column 16, lines 14-26).

Applicant has solved this problem by using a particular combination of thickening polymers which makes it possible to overcome the problems of fluidification and alteration of the properties of using the gel. This combination is:

- at least one thickening agent which is a cross-linked or non-cross-linked homopolymer or copolymer based on acrylic acid or methacrylic acid or acrylic and methacrylic acid, and
- at least one co-thickening agent which is a non-cellulosic thickening polymer different from the above thickening agent. (See claim 41).

Moreover, the choice of a non-cellulosic co-thickening agent rather than a cellulosic co-thickening agent leads to an unexpected effect, the improvement of the viscosity of the hairstyling gel comprising the claimed fixing film-forming polymer, which is shown in the example.

It is apparent that one of ordinary skill in the art, faced with the technical problem of finding a composition which makes it possible to overcome the problems of fluidification of the specific polymer of the invention, would not be prompted, in view of Midha et al, to use the specific copolymer of independent claims 26, 41 or 45. Reconsideration and withdrawal of the obviousness rejections are respectfully requested.

In view of the foregoing, early and favorable action is respectfully requested.

The Commissioner is hereby authorized to charge any fees due in connection with the present Amendment to Deposit Account 19-4293.

Respectfully submitted,

 *Res. No. 41498 for*

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